



New York State Office of

Indigent Legal Services

*Improving the quality of mandated representation
throughout the state of New York*

PERFORMANCE MEASURES ANNUAL REPORT

June 1, 2023

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Introduction

The New York State Office of Indigent Legal Services (ILS) submits this report consistent with its responsibility under Executive Law § 832(4) to implement the statewide expansion of the *Hurrell-Harring v. The State of New York* Settlement (“HH settlement”). This report, which provides a detailed overview of implementation progress between April 1, 2018 and March 31, 2023, is the fourth of a series of annual reports.

Pursuant to Executive Law § 832(4), ILS works with each county and New York City¹ to achieve the three objectives of the public criminal defense reforms first adopted in the HH settlement. The first objective ensures that all people charged with a crime and financially eligible for assigned counsel are represented by an attorney when they first appear before a judge or magistrate for arraignment (i.e., “counsel at arraignment”). Second, providers of criminal defense representation under County Law Article 18-B (referred to throughout this report as “providers”) must achieve full compliance with the caseload standards ILS developed to ensure that attorneys have the time and resources needed for quality representation. Finally, efforts must be made to improve the overall quality of mandated criminal defense representation provided throughout New York State. To monitor the status of implementation in the counties and New York City, ILS collects data from 124 providers using the ILS Performance Measures Progress Report (“Progress Report”) form, which is attached as Appendix A. This report provides a summary and assessment of the Progress Report information reported to ILS in the spring of 2023.

The Performance Measures Progress Report Data Collection and Reporting Process

Starting in 2018, ILS negotiated five-year contracts (“Statewide contract”) in consultation with each non-HH settlement county and New York City to achieve statewide expansion of the HH settlement reforms. Each Statewide contract consists of a budget and a workplan. The workplan includes a section entitled “Goals, Objectives, and Performance Measures” (see Appendix B), which presents the contractual Performance Measures designed to track the progress of implementation of the HH settlement initiatives.

The Progress Report form was first developed in preparation for the initial October 1, 2019 reporting period deadline. As described in previous reports, ILS has since twice updated the Progress Report form. The form is disseminated to providers via an online survey instrument using the QuestionPro platform.

To bolster localities’ capacity to collect and accurately report data pertaining to the Progress Report, ILS allocates funding for each locality to appoint a Data Officer whose primary function

¹ Five New York counties – Onondaga, Ontario, Schuyler, Suffolk, and Washington remain currently engaged in implementation of reforms adopted in the *Hurrell-Harring* settlement agreement and are therefore excluded from statewide implementation procedures outlined in Executive Law § 832(4) during the term of the settlement agreement.

is to coordinate with ILS in prioritizing and operationalizing data reporting requirements. The county-based Data Officers are expected to work closely with ILS, each provider, and the locality to collect and report reliable data to ILS in a timely manner. Additionally, ILS conducts periodic training sessions for Data Officers and providers to address all the ILS data reporting requirements, including the Progress Report. Since November 2019, ILS has conducted 15 data reporting training sessions. Each year, one or two sessions specifically focus on the Progress Report. ILS continues to receive many relevant questions before, during, and after the trainings, which shows that Data Officers and providers take their reporting duties seriously and make every effort to report accurate information.

To further assure accuracy, ILS developed, streamlined, and formalized the Progress Report review and follow-up process. After receipt of each completed Progress Report, the data is reviewed by the Criminal Defense Representation Team attorney assigned to the county.² When the review process identifies instances of questionable data, team members follow up with providers for clarification and, in some instances, correction of the data reported.

This report includes information from the Progress Reports provided by 122 of the 124 providers to which the Progress Report was sent.³ The list of providers who submitted a Progress Report is attached as Appendix C.

Assessment of Performance Measures Information

This section of the report provides an overview of the data and qualitative information reported in the Progress Reports provided to ILS. The analysis offered below is an aggregate view of the progress made on implementation of the HH settlement reforms between April 1, 2018 and March 31, 2023, as measured by the Performance Measures. More detailed data for each of the 52 counties and New York City is outlined in Appendix D.

I. Counsel at Arraignment

Pursuant to Executive Law § 832(4)(a) and in consultation with the defense providers, for each county ILS developed a written plan to ensure that everyone charged with a criminal offense who is eligible for mandated representation is represented by counsel in person at their arraignment. “Arraignment” is defined as the “first appearance by a person charged with a crime before a judge or magistrate, with the exception of an appearance where no prosecutor appears, and no action occurs other than the adjournment of the criminal process and the unconditional

² As of March 2023, ILS has restructured the *Hurrell-Harring* and Statewide Implementation Teams into one Criminal Defense Representation Team. New York State is divided up into eight regions of seven to eight counties each, and each region is assigned a Team attorney and is overseen by two Deputy Criminal Defense Chiefs and the Criminal Defense Representation Chief.

³ Montgomery ACP and Rensselaer ACP did not submit a Performance Measures Progress Report to ILS.

release of the person charged (in which event ‘arraignment’ shall mean the person’s next appearance before a judge or magistrate).”⁴

Question 1 of the Progress Report asked providers to list all the attorneys on staff as of March 31, 2023 who are funded by the Statewide contract and to identify whether each attorney is a new hire, an upgrade of an existing hire, or on contract. Additionally, providers were asked to indicate if the attorney provided arraignment representation and to report the number of cases assigned to the attorney over the reporting period of April 1, 2022 through March 31, 2023. Providers were instructed to include those assigned for arraignment as well as those assigned post-arraignment. Question 2 asked providers to estimate the total number of cases at which representation at arraignment was provided as a result of the Statewide contract funding. The Progress Report instructed providers to include arraignments provided by all attorneys reported at Question 1, as well as by attorneys who are paid by the Statewide contract via hourly rates or stipends to provide representation at arraignment (including assigned counsel panel attorneys).

The data elicited from these questions reveals that localities have effectively used Statewide contract funding to ensure that people arrested for a crime are represented at arraignment.

The Numbers

- Between April 1, 2018 and March 31, 2023, **542 new attorneys who provide counsel at arraignment** were hired.
- Of these, **473 are new hires, 56 are upgrades of existing positions,⁵ and 13 are contract positions.**
- In total, **an estimated 109,644 new arraignment and post-arraignment cases** were assigned to attorneys who were compensated under the Statewide contract during the period of April 1, 2022 – March 31, 2023. This is 30,413 more than reported last year.
- **For an estimated 157,460 cases, representation at arraignment was provided as a result of the Statewide contract funding.⁶** This is an increase of 56,393 over last year’s reported cases.

Providers’ Experiences with Counsel at Arraignment

In the qualitative portion of the Progress Report, providers are asked to describe their successes and challenges in providing counsel at arraignment. Similar to the previous four fiscal years,

⁴ Executive Law § 832(4)(a)(i).

⁵ For purposes of this report, upgrades of an existing position are counted only if the upgrade involves working additional hours.

⁶ This number is even higher than the number of new arraignment and post-arraignment cases assigned to attorneys who were compensated with the Statewide contract reported in the previous bullet point. Unlike the first, the second number also includes assigned counsel panel attorneys who are paid an hourly rate, or a stipend funded by the Statewide contract to provide representation at arraignment and attorneys whose base salaries are not funded by the Statewide contract, but who are paid extra through the contract (via hourly rates or stipends) to provide representation at arraignment.

providers reported using Statewide contract funding to build and maintain the infrastructure designed to ensure countywide arraignment coverage. Many counties have created⁷ or are in the process of creating Centralized Arraignment Parts (CAPs) to centralize custodial arraignments.⁸ Other counties reported having an on-call calendar accompanied by an organized on-call and attorney back-up system as well as agreements with the county jail to provide a holding cell.

An important factor in the success of these arraignment structures is the ability to staff the CAPs, arraignment sessions, and on-call shifts. Providers reported using Statewide contract funding for attorney salaries, attorney contracts, and arraignment stipends. In the past five years, Statewide contract funding has been used to increase the number of attorneys on staff at various institutional provider offices. Having more attorneys on staff means that there are more attorneys available to provide representation at arraignments, which creates greater flexibility in scheduling and for attorney back-up in case of emergencies. In addition, Statewide contract funding has been used to hire contract attorneys who provide representation at arraignment, especially during weeknights, weekends, and holidays. To ensure complete arraignment coverage and back-up coverage, providers reported setting off-hour schedules in advance. Lastly, appropriate compensation in the form of arraignment stipends and paying for mileage remains another attractive way to incentivize attorneys for providing representation at arraignments conducted during regular court sessions and at those conducted outside of regular court sessions.

Providers noted that having more attorneys available to provide representation has several benefits in addition to scheduling flexibility. For example, it allows attorneys to spend more time with their clients immediately prior to and after the arraignment, it alleviates the burden on individual attorneys allowing for more sustainable programs, and it allows for a more equitable distribution of arraignment shifts between attorneys, particularly weekend and holiday arraignments. These benefits all improve morale among the attorneys in the office and reduce attorney burn-out.

All these efforts support and maintain attorney participation in arraignment shifts which, in turn, helps to ensure countywide arraignment coverage. Moreover, providers mentioned that being able to staff arraignment parts with more than just a single attorney led to improved quality of representation at arraignment.

A few providers described their efforts in creating special types of arraignment programs and positions including an arraignment program specifically focused on juvenile and adolescent individuals, a pre-arraignment program in which counsel is assigned to the case before the arraignment to ensure attorney continuity, and the creation of positions tasked with the coordination of arraignments in the county.

Several providers in counties that do not have a CAP reported the obstacles involved in creating and implementing a CAP, including resistance of some stakeholders in the county, the impact on

⁷ As of May 2023, 28 counties in New York State created a Centralized Arraignment Part.

⁸ In some counties, non-custodial arraignments are also conducted in the Centralized Arraignment Part.

law enforcement in providing pre-arraignment detention and security officers at the CAP, and the refusal of some courts to participate in the CAP. Still, many counties remain interested in implementing CAPs, and ILS credits the Office of Court Administration (“OCA”) for their efforts to make CAPs a viable option for counties.⁹

As has been the case in prior years, attracting and retaining qualified attorneys was a challenge identified by providers in both rural parts of the state and New York City. Providers in rural communities identified a lack of attorneys in the area and difficulties finding attorneys willing to move to the area, while the New York City providers generally identified noncompetitive attorney compensation and an overall need to increase funding for the organizations that provide mandated representation.

Some providers noted the challenge of recruiting attorneys willing to provide representation at arraignment. Providers noted several issues, such as the compensation for arraignment representation being insufficient for the burden of appearing at an overnight arraignment, as well as the county’s geographic size and poor road and/or weather conditions which makes traveling to and from court challenging.

II. Caseload Relief

Executive Law § 832(4)(b) requires localities to make good faith efforts to implement the caseload standards ILS established and issued in the 2016 report, *A Determination of Caseload Standards pursuant to §IV of the Hurrell-Harring v. The State of New York Settlement*.¹⁰ Key to successful implementation of caseload standards is the recruitment and retention of the new attorneys and additional support staff needed to comply with the caseload standards.

As stated above, Question 1 of the Progress Report required providers to list the attorneys on staff as of March 31, 2023 who are funded by the Statewide contract, and asked providers to estimate how many cases were assigned to these attorneys. Question 3 asked providers to list all the non-attorney positions on staff as of March 31, 2023 funded by the Statewide contract, and as with Question 1, to identify if the position is a new hire, an upgrade of an existing position, or a contract position. Providers were also asked to indicate the type of position (i.e., investigator, social worker, non-attorney administrative staff, and “other” non-attorney positions).

As the numbers below show, as of March 31, 2023, a total of 1,095 positions were created and filled with Statewide contract funding. This is 189 more than last year, and by any measure, a significant contribution to the mandated criminal defense function.

⁹ CAPs are authorized under Judiciary Law § 212(1)(w), and thus OCA must initiate the steps necessary in each county to establish a CAP.

¹⁰ The ILS caseload standards are available here:
<https://www.ils.ny.gov/files/Caseload%20Standards%20Report%20Final%20120816.pdf>

The Numbers

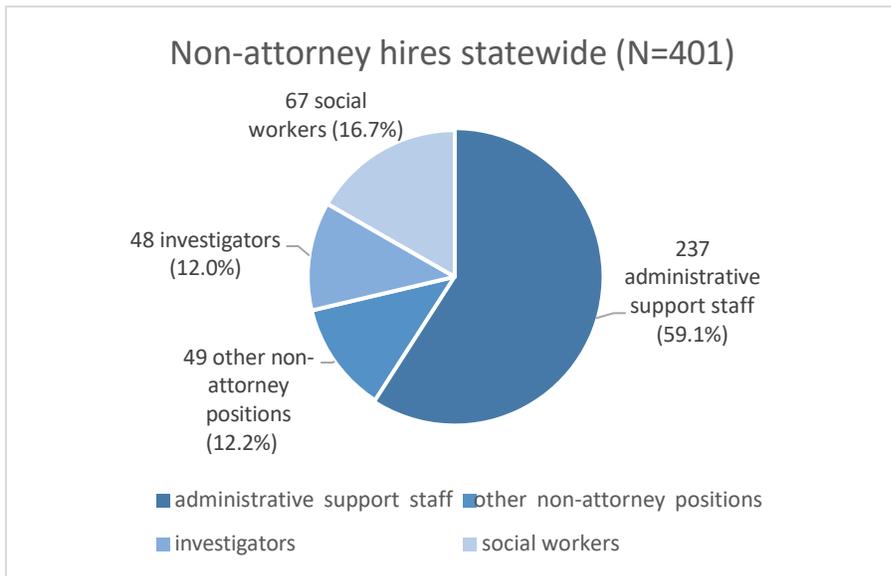
- Between April 1, 2018 and March 31, 2023, **694 new attorneys were hired** with the funding provided by the statewide expansion of the HH settlement. Of these, **597 were new hires, 70 were upgrades of existing positions** (i.e., extra hours were added to existing part-time positions), **and 26 were placed on contract.**¹¹
- In total, **an estimated 109,644 cases** were represented by attorneys who were hired with the Statewide contract funding during the period of April 1, 2022 – March 31, 2023.
- Looking at the **last year only** (April 1, 2022 – March 31, 2023), **129 new attorneys** were hired. This number is a substantial increase over the 76 new non-attorneys hired between April 1, 2021 – March 31, 2022.
- Additionally, between April 1, 2018 and March 31, 2023, **401 non-attorneys were hired** with the Statewide contract funding throughout the 52 counties and New York City. Of these, **377 were new hires, 18 were upgrades of existing positions, and five were placed on contract.**¹²
- Of the 401 non-attorneys hired, upgraded, or placed on contract, most were **administrative support staff** (n = 237, 59.1%), followed by **social workers** (n = 67, 16.7%), **other non-attorney positions** (n = 49, 12.2%), and **investigators** (n = 48, 12.0%). See Figure 1 for an overview.
- Looking at the **last year only** (April 1, 2022 – March 31, 2023), **60 new non-attorneys** were hired. While fewer than the 84 new non-attorneys hired between April 1, 2021 – March 31, 2022, it demonstrates ongoing progress.
- **48 counties and New York City designated a Data Officer.**

For a county-specific overview of attorney and non-attorney hiring, please see Appendix D.

¹¹ For one attorney position, information on whether it concerned a new hire, an upgrade of an existing position, or someone placed on contract was missing.

¹² For one non-attorney position, information on whether it concerned a new hire, an upgrade of an existing position, or someone placed on contract was missing.

Figure 1



Providers' Experiences with Caseload Relief

Statewide contract funding has been a crucial resource in providing caseload relief and significantly increasing provider attorney and non-attorney staff positions. As the number of attorney staff increases, providers have been able to assign attorneys to specialized teams focusing on particular types of charged crimes or disciplines, assign additional attorneys to the busiest courts, and promote experienced attorneys to supervisory positions. Providers also reported that the backlog of pending cases that resulted because of the need to significantly limit court functions during the Covid-19 pandemic is starting to diminish.

Non-attorney staff positions continue to be an essential component of caseload relief. Providers reported that non-attorney staff assist in reducing attorney caseloads by handling a variety of administrative tasks such as court filings, record gathering, answering phones, reporting court dates, and relaying messages to attorneys. Experts and investigators not only provide critical case-related information to attorneys, but they also assist in ongoing client communication and rapport building. Providers reported that having the additional attorney and non-attorney staff positions have promoted job satisfaction.

Several providers reported that staff attrition continues to be a challenge, though they acknowledge that the problem would likely have been worse had it not been for the Statewide contract funding that allowed them to hire more staff and reduce attorney caseloads. In addition, providers report being better able to plan for future hiring decisions because of funding security. Still, to retain more experienced staff, some providers are using Statewide contract funding to promote staff, with increased pay, to positions that include supervisory and mentorship responsibilities.

Providers continue to report that the 2019 reform of New York’s discovery laws (“discovery reform”), which took effect in January 2020, has dramatically increased the amount of time attorneys must spend on their cases to organize and review the discovery that is now provided early in the case. This is consistent with the information attorneys reported in response to a survey circulated in early 2022, as discussed in the March 28, 2022 report entitled “The Impact of Discovery Reform Implementation in New York: Report of Defense Attorney Survey Conducted Jointly by the Chief Defender Association of New York, the New York State Defenders Association, the NYS Association of Criminal Defense Lawyers, and the NYS Office of Indigent Legal Services.” As this report indicates, discovery reform requires attorneys to spend significantly more time in cases, but it also significantly enhances the quality of criminal defense representation and fundamental fairness.¹³

Most Assigned Counsel Program providers reported that the statutory hourly compensation rates for panel attorneys was the main challenge to caseload standard compliance during the reporting period. The low statutory rates have resulted in many attorneys leaving the panels, which in turn has created problems with attorney continuity on some cases as providers need to reassign cases to another attorney when the attorney originally assigned the case leaves the panel.¹⁴

III. Quality Improvement

When the statewide expansion of the HH settlement began, pursuant to Executive Law § 832(4)(c), ILS developed written plans for all 52 counties and New York City to improve the quality of mandated criminal defense by ensuring that public defense attorneys receive effective supervision and training, have access to and appropriately use investigators, interpreters, experts, and other non-attorney professionals, communicate effectively with their clients, and have the necessary qualifications and experience to handle the types of cases assigned to them.

The Progress Report requires providers to report information about supervision, training, and access to and use of non-attorney professionals. To obtain information about supervision, Question 1 asked providers to indicate if a funded position was a supervisory position. To obtain information about training, Question 4(a) asked providers to estimate the total number of training events funded by the Statewide contract, and Question 4(b) asked providers to estimate the total number of attorneys whose attendance at a training event was supported by the Statewide contract. For the use of experts and investigators, Question 5(a) asked providers to estimate the expenditures for expert services paid for by the Statewide contract, while Question 5(b) asked providers to do the same for investigators. Of note, providers were instructed to exclude the salaries of experts or investigators, since the question focused on contracted expert and

¹³ This report is available at: [Discovery Reform | New York State Office of Indigent Legal Services \(ny.gov\)](https://www.oils.ny.gov/discovery-reform).

¹⁴ ILS acknowledges that the final enacted state FY 2023-24 budget meaningfully increased these rates, effective April 1, 2023, and we will monitor the impact this has on the Assigned Counsel Programs. We anticipate that the impact will not be immediate, and that it will take the programs time to recruit and train new panel attorneys. Still, the increased rates are a vital first step toward re-building the panels that were effectively decimated by compensation rates that were too low for too long.

investigative services only. For both Questions 6(a) and 6(b), providers were asked to identify the total number of cases in which expert or investigator services were used. Here, they were specifically instructed to include all cases in which expert or investigative services were provided, including those of both salaried and contracted experts compensated by the Statewide contract funding.

Below is the aggregate information reported:

The Numbers

- Of the 694 attorneys hired statewide since April 1, 2018, **85** are **attorneys who supervise the work of others or provide training/mentoring**.¹⁵
- **336 training events were hosted, sponsored, or cosponsored** using Statewide contract funding between April 1, 2022 and March 31, 2023. Training events include, but are not limited to, professional conferences and Continuing Legal Education (CLE) courses.
- For a total of **1,925 attorneys**, their **attendance at training events** (such as registration fees, travel reimbursements, and accommodations) was supported by Statewide contract funding.
- Statewide, a total of **\$1,735,670 was spent on contracted expert services** and **\$525,792 was spent on contracted investigative services in the past year** (April 1, 2022 – March 31, 2023). Compared to the amounts spent in the year before (i.e., \$830,521 and \$367,235 respectively, from April 1, 2021 to March 31, 2022), **the average annual use of Statewide contract funding for these services significantly increased** (a 109.0% increase for contracted expert services and 43.2% for contracted investigative services).
- Expert services provided as a result of Statewide contract funding were used in a total of **8,132 cases**. This number includes expert services provided by **both salaried and contracted experts** and is an **increase of 4,121 cases or 102.7%** compared to the year before (April 1, 2021 to March 31, 2022).
- Investigative services provided as a result of Statewide contract funding were used in a total of **9,713 cases**. This number includes investigative services provided by **both salaried and contracted investigators** and is an **increase of 777 cases or 8.7%** compared to the year before (April 1, 2021 to March 31, 2022).

Providers' Experiences with Quality Improvement

Providers shared their efforts and successes in these six general areas:

1) Training and Legal Expertise

Many providers reported using Statewide contract funding to meaningfully enhance access to CLE trainings, conferences, and meetings. Some stated that before receiving this funding, attorneys' access to training and conferences was more limited and that, for example, attending

¹⁵ In addition, 43 were Chief Attorneys / Administrators or Attorneys-in-Charge, and 566 were attorneys who did not supervise the work of others.

the New York State Defenders Association’s annual training and conference would consume most of their training budget. Providers indicate that because of Statewide contract funding, a wider variety of in-person and virtual training opportunities are now available to staff in their offices, including DWI trainings, intensive multi-day training programs, basic trial skill trainings for newly hired attorneys, trainings on client-centered representation and office culture, and trainings on the representation of non-citizen clients organized in collaboration with ILS’ Regional Immigration Assistance Centers. Statewide contract funds have also been used to create positions specifically focused on the provision and coordination of trainings and CLEs.

Some providers also noted that Statewide contract funding has allowed them to purchase high quality legal research print materials and electronic research services, such as Westlaw. Additionally, with Statewide contract funding, providers are better positioned to pay for their staff to belong to professional criminal defense organizations, which allows them access to attorney consultation services, listserv participation, and reduced costs for training programs. Some Assigned Counsel Programs are actively collaborating on providing and maintaining joint training programs for their panel attorneys. Several providers noted the benefits of being able to establish resource attorney programs, special litigation positions, and collateral consequences attorney programs. These programs give attorneys opportunities to consult with other attorneys who have expertise in specialized areas and who can advise on specific case and client issues, including, for example, representation of non-citizen clients, the Domestic Violence Survivors Justice Act, sentencing advocacy, and complex forensic issues.

Providers noted that increasing access to this training and these services is critical, but that they must also continue their efforts to ensure that attorneys are actively using them. This has been a particular challenge for Assigned Counsel Programs over the past few years because the low statutory compensation rates have resulted in fewer attorneys accepting new case assignments, which means higher caseloads for attorneys who continue to take new cases, and thus, much less time available to attend trainings or consult with others.

2) *Supervision*

Providers continue to use Statewide contract funding to cover costs related to mentoring programs and second chair programs. One provider noted that second chair programs not only ensure adequate attorney staffing on a case for quality representation, but it is also the best “on-the-ground” training available for less experienced attorneys. Providers have also used Statewide contract funds to hire supervising attorneys, thereby increasing attorney supervision and support.

Assigned Counsel Program providers noted as a challenge the significant workloads of the diminishing number of panel attorneys who accept new case assignments. Moreover, some Assigned Counsel Program providers noted their ongoing efforts to encourage panel attorneys to better utilize the resources available to them, including the second chair and mentor programs, both of which can build partnerships between lesser and more experienced attorneys.

3) Access to Non-Attorney Professionals

Most providers discussed how Statewide contract funding has improved their ability to hire or contract with a variety of non-attorney professionals, including investigators, experts, social workers, case managers, consultants, mitigation specialists, forensic psychologists, forensic psychiatrists, interpreters, intake coordinators, community outreach coordinators, administrative support staff, and paralegals. Access to these services has a direct and positive impact on the quality of representation. Moreover, it contributes to the provision of holistic representation, which recognizes that clients' legal and non-legal needs are inevitably intertwined.

Challenges discussed by providers included county resistance to creating and filling new non-attorney positions (even if funded by the Statewide contract) and the bureaucratic hurdles to filling these positions. In addition, providers reported the resistance of some judges and magistrates to assigning non-attorney professional services to cases when necessary¹⁶ as well as underutilization of these services by some attorneys. A couple of providers reported experiencing difficulties in identifying and recruiting quality non-attorney professionals and the need to expand beyond county boundaries to do so.

4) Client Communication

Providers reported an increased focus on client communication. One provider described conducting a staff-wide program within the office focusing on client-centered representation and office culture that consisted of team-based exercises, effective communication techniques, de-escalating conversations, and empathy. Another provider was able to implement a Holistic Representation Program (HRP) to provide clients with intensive interdisciplinary advocacy by actively following their progress with mental health and substance abuse treatment, addressing their civil legal services needs and other issues that bring them into the criminal system, and engaging with the community organizations that are regularly involved with people who are caught up in the criminal legal system.

5) Hiring and Retaining Qualified Attorneys

Although the data indicates that providers are hiring additional staff, providers reported continuing to face significant challenges in recruiting, hiring, and retaining qualified and committed staff. Two providers reported that their postings for attorney positions did not produce a single application. One provider reported losing attorneys to the District Attorney's Office, which pays higher salaries.

Assigned Counsel Programs reported that maintaining a sufficient number of attorneys on their panels continued to be their most significant challenge over the past year because of the chronically low statutory compensation rates.

¹⁶ This is an issue for Assigned Counsel Programs. In these cases, ILS is working with the Assigned Counsel Program administrators to encourage them to authorize use of Statewide contract funding for these non-attorney professional services so that panel attorneys do not need to ask judges to authorize these services.

While the issue of hiring and retention remains an issue statewide, multiple providers reported that they shifted their recruitment focus and re-organized their offices to overcome hiring barriers. Several providers reported increased recruitment at law schools, bar associations and other organizations, as well as participating in and hosting job fairs. As previously stated, providers also sought to retain more experienced staff by offering them higher paying positions with supervision and mentoring responsibilities. This approach is also a means of building a more robust on-boarding, training, and support program for newly hired attorneys.

Several providers use Statewide contract funding to create and maintain intern and externship programs, and an increasing number of providers reported that they are considering implementing these types of programs. One Assigned Counsel Program provider eloquently described the potential benefits of intern and externship programs beyond short-term attorney recruitment and retention. Creation of these programs can provide support to panel attorneys, improve the quality of representation, and serve as a long-term recruiting tool to increase the number of attorneys on the panel.

6) Technology

Discovery reform has significantly increased the technology (“IT”) needs of public defense providers. Providers need better IT resources to access, store, and secure the discovery materials they now received as a result of the 2019 discovery reform. Some providers reported that they are using Statewide contract funding to update and improve their case management systems and are purchasing the hardware and software needed to keep up with increased demands. One provider reported adjusting their IT capacity by expanding their digital evidencing system. Another provider reported upgrading their case management system to keep up with expanding staff and case demands.

Technology is also being used to better communicate with clients. One provider reported that his office used Statewide contract funding to implement a “Laptops at the Jail Initiative,” which allows clients detained at the county’s jail to view their discovery materials. This allows clients to review materials between attorney visits so attorneys can use these visits for more substantive discussion about the case.

Providers have also used Statewide contract funding to secure the technology needed to sustain their counsel at arraignment programs, including purchasing cell phones and data plans so courts can contact defense attorneys for representation at arraignment. Other providers reported purchasing computers or upgrading their current computer systems to better support daily operational functions.

Challenges with Town and Village Courts

Several providers identified town and village courts as a particular challenge to quality representation. For example, providers reported that typically, town and village courts are open only part-time and contacting court personnel on non-court days is virtually impossible. Some courts do not use email or any other electronic communication to effectuate meaningful

communication with the parties. Providers report that this poor communication has, in many instances, impaired their clients' rights.

One provider reported courts have stopped issuing court calendars and court notices in advance of court dates, which has caused issues with clients attending court appearance. They also reported that some local justices seem to not fully understand the legal issues around bail reform, and as a result have improperly remanded some clients.

Conclusion

The work over the past five years toward statewide implementation of the HH settlement reforms has shown substantial progress. Statewide contract funds have been used to hire almost 1,100 additional attorney and non-attorney positions for caseload relief. This increase in the number of hired positions has occurred amidst the challenges that most public defense providers are facing in recruiting and retaining attorney staff. The recruitment and attrition challenges are significant, and despite the increase in the number of hired positions, most providers still have vacant positions they are trying to fill.

Providers have also used Statewide contract funds to build and maintain the infrastructures needed for defense counsel representation at arraignments. Centralized Arraignment Parts have been created to centralize custodial arraignments, and on-call systems and attorney stipend programs have been developed and improved to ensure defense representation at arraignments statewide. This has resulted in a significant increase of the number of cases at which representation at arraignment was provided as a result of Statewide contract funding (from roughly 67,500 cases in the first two years of statewide reform implementation to about 157,500 cases during this last year of implementation only).

Finally, providers have made significant progress in improving the quality of representation, as measured by utilization of non-attorney professional services, more training opportunities, and enhanced supervision and support. The increase in use of Statewide contract funds for expert and investigative services over the past five years of implementation is remarkable, and the number of cases receiving expert and investigative services via Statewide contract funding increased from 1,355 during the first two years to 8,132 in this last year (for expert services) and from 1,548 during the first two years to 9,713 in this last year (for investigative services). Similarly, the funding spent for these services increased more than 300% (for investigative services) and 475% (for expert services) when comparing the first to the fifth year of implementation.¹⁷

In sum, the data presented in this report reflect continuing progress over the past five years in the implementation of the HH settlement initiatives as providers and county officials work with ILS to address ongoing challenges.

¹⁷ The data points collected for the first annual Performance Measures Report referred to the first two years of implementation and therefore, the dollar amounts spent towards expert and investigative services presented in that report were divided by two to create the implementation year 1 baseline.

Appendix A. *Performance Measures Progress Report form*

Appendix B. *Attachment C of the County Contract entitled, “Work plan: Goals, objectives, and Performance Measures.”*

Appendix C. *List of Providers in New York State who submitted a Progress Report*

Appendix D. *Key Performance Measures information as reported by the 52 counties and New York City*

APPENDIX A:

Performance Measures Progress Report form



**Indigent
Legal Services**

Performance Measures Progress Report April 2023

Thank you for completing the April 2023 Performance Measures Progress Report (Progress Report). Each County's criminal defense providers, (i.e., other than the five counties currently engaged in the *Hurrell-Harring* settlement agreement) and each of the eleven criminal defense providers in New York City are expected to file a completed Progress Report with ILS twice a year (i.e., by October 30th and April 30th of each year). The Progress Report form outlined in this survey is intended to gather information on the use of funding for implementation of the counsel at first appearance, caseload relief, and quality improvement reforms introduced in the *Hurrell-Harring* settlement agreement and subsequently extended to the rest of the state via Executive Law § 832 (4).

When possible, the information provided in the Progress Report should **ONLY** reflect the use of funding as allocated in the five-year contract supporting statewide implementation of the *Hurrell-Harring* settlement agreement reforms. The Progress Report is **due for submission by April 30, 2023**. Subsequent Progress Reports will be due for submission to ILS on a semi-annual basis thereafter.

INSTRUCTIONS

Please review the following instructions before completing the Progress Report.

Review the County's Budget Items Approved in the Five-Year Contract: The budget items, as outlined in Attachment B-I of your county's five-year contract (Contract) supporting statewide implementation of the *Hurrell-Harring*

settlement agreement should be used as a reference to complete the Progress Report form. Please email ILS at performance@ils.ny.gov if Attachment B-I is unavailable to you when completing the Progress Report form. See below for a sample of Attachment B-I.

Print and/or Save the Progress Report form for future reference: It may be useful to print and/or save the Progress Report form for future reference. The form is attached as a PDF document to the email ILS sent early April, 2023. Alternatively, the Progress Report form may be downloaded from the ILS website at <https://www.ils.ny.gov/node/53/annual-data-reporting>. Any questions and/or concerns on the Progress Report form should be emailed to performance@ils.ny.gov prior to April 30, 2023.

Sample of Attachment B-1

*This is the sample of the budget for a hypothetical Public Defender's Office.
Note the lines for personnel and Contracted/Consultant entries.*

Budget Expenditure Item	Year 1 4/1/18 - 3/31/19	Year 2 4/1/19 - 3/31/20	Year 3 4/1/20 - 3/31/21	Year 4 4/1/21 - 3/31/22	Year 5 4/1/22 - 3/31/23
PUBLIC DEFENDER'S OFFICE					
CASELOAD RELIEF					
Personnel:					
Attorney Supervisor - Salary	\$80,000.00	\$81,600.00	\$83,232.00	\$84,897.00	
(2) Assistant Public Defenders - Salary	\$140,000.00	\$142,800.00	\$145,656.00	\$148,570.00	
Paralegal - Salary	\$44,737.00	\$45,632.00	\$46,545.00	\$47,476.00	
Secretary - Salary	\$35,000.00	\$35,700.00	\$36,414.00	\$37,142.00	
Fringe for above positions	\$43,000.00	\$46,000.00	\$49,500.00	\$52,000.00	
Data Officer (Stipend)	\$20,000.00	\$20,000.00	\$20,000.00	\$20,000.00	
Caseload Relief - Subtotal	\$362,737.00	\$371,732.00	\$381,347.00	\$390,085.00	\$0.00
QUALITY IMPROVEMENT					
Contracted/Consultant:					
Expert Services	\$80,000.00	\$95,000.00	\$102,500.00	\$103,500.00	
Investigator	\$15,000.00	\$17,000.00	\$19,000.00	\$21,000.00	
Subtotal Contracted/Consultant	\$95,000.00	\$95,000.00	\$102,500.00	\$103,500.00	\$0.00
OTPS:					
Computer Equipment	\$20,000.00	\$20,000.00	\$0.00	\$0.00	
Legal Reference Material/Books/Transcripts	\$10,000.00	\$15,000.00	\$15,000.00	\$15,000.00	
Subtotal OTPS	\$30,000.00	\$35,000.00	\$15,000.00	\$15,000.00	\$0.00
Quality Improvement - Subtotal	\$125,000.00	\$130,000.00	\$117,500.00	\$118,500.00	\$0.00
COUNSEL AT FIRST APPEARANCE					
Personnel:					
Assistant Public Defender - Salary	\$70,000.00	\$71,400.00	\$72,828.00	\$74,285.00	
Assistant Public Defender - Fringe	\$8,600.00	\$8,782.00	\$8,958.00	\$9,137.00	
Subtotal Personnel	\$78,600.00	\$80,182.00	\$81,786.00	\$83,422.00	
Contracted/Consultant/OTPS:					
Counsel at First Appearance - Subtotal	\$78,600.00	\$80,182.00	\$81,786.00	\$83,422.00	\$0.00
PUBLIC DEFENDER'S OFFICE - TOTAL	\$566,337.00	\$581,914.00	\$580,633.00	\$592,007.00	\$0.00

As the preparer of this form, please provide your name and contact information. Even if you are preparing this form on behalf of someone else, we would like you to provide your name and your contact information so we can reach out to you in case we have any questions about the data you reported.

First Name

Last Name

Phone

Email Address

Position / Job Title

Name of your employer

* Please indicate if you are preparing this form for a / an

- Public Defender's Office
- Conflict Defender
- Assigned Counsel Program
- Other

* Please indicate in which county this provider is located (for any borough in New York City, please select the "New York City" option)

- Albany County

- Allegany County
- Broome County
- Cattaraugus County
- Cayuga County
- Chautauqua County
- Chemung County
- Chenango County
- Clinton County
- Columbia County
- Cortland County
- Delaware County
- Dutchess County
- Erie County
- Essex County
- Franklin County
- Fulton County
- Genesee County
- Greene County
- Hamilton County
- Herkimer County
- Jefferson County
- Lewis County
- Livingston County

- Madison County
- Monroe County
- Montgomery County
- Nassau County
- New York City
- Niagara County
- Oneida County
- Onondaga County
- Ontario County
- Orange County
- Orleans County
- Oswego County
- Otsego County
- Putnam County
- Rensselaer County
- Rockland County
- Saint Lawrence County
- Saratoga County
- Schenectady County
- Schoharie County
- Schuyler County
- Seneca County

- Steuben County
 - Suffolk County
 - Sullivan County
 - Tioga County
 - Tompkins County
 - Ulster County
 - Warren County
 - Washington County
 - Wayne County
 - Westchester County
 - Wyoming County
 - Yates County
-

* Are you the designated ILS Data Officer for your county?

- Yes
 - No
-

* Has the county designated an ILS Data Officer?

- Yes
 - No
-

* Please provide the name of the ILS Data Officer:

Please provide the starting date (mm/dd/yyyy) of his/her position. If the exact starting day is unknown, please report the first of the month as the starting date.

MM/DD/YYYY



* Please provide a description of the progress toward the designation of an ILS Data Officer. If unknown, please type "Unknown" in the text box below.

* Does your institution / organization use an electronic case management system?

Yes

No

* What case management system does your institution / organization use?

defenderData

IntelLinx

LaserFiche

Law Manager

LegalServer

Logis

PDCMS

PIKA

Tecana

Other

* I. Please report the **number of attorney positions** that are funded as of March 31, 2023 by budget expenditure items listed in the “Caseload Relief,” “Quality Improvement,” and “Counsel at First Appearance” categories of the contract (see Attachment B-1). For each attorney position, please provide the **type, starting date**, indicate if it was a **new hire, an upgrade of an existing hire** (i.e., an increase in hours), or an attorney position placed **on contract**, and select if the attorney **provides representation at arraignment**. Then, enter the **total number of cases assigned** to the attorney **between April 1, 2022 and March 31, 2023**.

INSTRUCTIONS AND DEFINITIONS

General Instructions	<p>As this question tries to get a cumulative overview of attorney positions since the implementation of the statewide reforms, answers to this question should include <u>all</u> attorney positions that were funded through the Contract on the last business day of the reporting period (i.e., March 31, 2023).</p> <p>Answers to this question should not include attorneys who received stipends or were paid as assigned counsel pursuant to NY County Law § 722-b (1). Attorneys receiving funding for mentoring programs, second-chair programs, or litigation support also should not be included where they were not filling a position created by this funding.</p>
Type of Contract	
<i>New Hire</i>	refers to any new attorney position, part- or full-time, that was filled on the last business day of the reporting period (i.e., March 31, 2023), including, but not limited to, ACP attorney-administrators and other ACP attorney staff.
<i>Upgrade of Existing Hire</i>	refers to any attorney position that existed prior to the reporting period, and for which the number of hours worked was increased as of the last business day of the reporting period (i.e., March 31, 2023). For example, an existing attorney whose position changed from part- to full-time would be included in this category. Salary increases that are not accompanied by an increase in the number of hours worked should not be included.
<i>On Contract</i>	refers to any individual attorney who occupies a position through a contract to provide services under this funding, and who was working under that contract on the last business day of the reporting period (i.e., March 31, 2023). It excludes contractors who did not occupy a position, such as those who received stipends, were paid as assigned counsel pursuant to NY County Law § 722-b-1, or who received funding for mentoring programs, second-chair programs, or litigation support.
Re-hire within the same position	If a position was filled by an individual, the individual left, and another individual was hired (i.e., a re-hire within the same position), please count this as one hire and only report the starting date for the first individual.
Number of Cases	
<i>Total Number of Cases</i>	This should include cases assigned between April 1, 2022 and March 31, 2023. Please include all cases, including cases at which representation was provided just for arraignment. For attorneys whose positions were upgraded (i.e., hours were added to their contract), please estimate the number of additional cases they were assigned as a result of the upgraded position.

	Type of Position	Starting Date (mm/yyyy)	New Hire, Upgrade of Existing Hire, or On Contract	Provides representation at arraignment
Attorney Position 1	-- Select -- <input style="float: right;" type="button" value="?"/>		-- Select -- <input style="float: right;" type="button" value="?"/>	-- Select --
* Attorney Position 2	-- Select -- <input style="float: right;" type="button" value="?"/>		-- Select -- <input style="float: right;" type="button" value="?"/>	-- Select --
* Attorney Position 3	-- Select -- <input style="float: right;" type="button" value="?"/>		-- Select -- <input style="float: right;" type="button" value="?"/>	-- Select --
* Attorney Position 4	-- Select -- <input style="float: right;" type="button" value="?"/>		-- Select -- <input style="float: right;" type="button" value="?"/>	-- Select --
* Attorney Position 5	-- Select -- <input style="float: right;" type="button" value="?"/>		-- Select -- <input style="float: right;" type="button" value="?"/>	-- Select --
* Attorney Position 6	-- Select -- <input style="float: right;" type="button" value="?"/>		-- Select -- <input style="float: right;" type="button" value="?"/>	-- Select --
* Attorney Position 7	-- Select -- <input style="float: right;" type="button" value="?"/>		-- Select -- <input style="float: right;" type="button" value="?"/>	-- Select --
* Attorney Position 8	-- Select -- <input style="float: right;" type="button" value="?"/>		-- Select -- <input style="float: right;" type="button" value="?"/>	-- Select --
* Attorney Position 9	-- Select -- <input style="float: right;" type="button" value="?"/>		-- Select -- <input style="float: right;" type="button" value="?"/>	-- Select --

Attorney Position 10	-- Select -- <input style="border: 1px solid black; padding: 2px 5px;" type="button" value="?"/>		-- Select -- <input style="border: 1px solid black; padding: 2px 5px;" type="button" value="?"/>	-- Select --
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Attorney Position 11	-- Select -- <input style="border: 1px solid black; padding: 2px 5px;" type="button" value="?"/>		-- Select -- <input style="border: 1px solid black; padding: 2px 5px;" type="button" value="?"/>	-- Select --
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Attorney Position 12	-- Select -- <input style="border: 1px solid black; padding: 2px 5px;" type="button" value="?"/>		-- Select -- <input style="border: 1px solid black; padding: 2px 5px;" type="button" value="?"/>	-- Select --
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Attorney Position 13	-- Select -- <input style="border: 1px solid black; padding: 2px 5px;" type="button" value="?"/>		-- Select -- <input style="border: 1px solid black; padding: 2px 5px;" type="button" value="?"/>	-- Select --
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Attorney Position 14	-- Select -- <input style="border: 1px solid black; padding: 2px 5px;" type="button" value="?"/>		-- Select -- <input style="border: 1px solid black; padding: 2px 5px;" type="button" value="?"/>	-- Select --
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Attorney Position 15	-- Select -- <input style="border: 1px solid black; padding: 2px 5px;" type="button" value="?"/>		-- Select -- <input style="border: 1px solid black; padding: 2px 5px;" type="button" value="?"/>	-- Select --
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Attorney Position 16	-- Select -- <input style="border: 1px solid black; padding: 2px 5px;" type="button" value="?"/>		-- Select -- <input style="border: 1px solid black; padding: 2px 5px;" type="button" value="?"/>	-- Select --
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Attorney Position 17	-- Select -- <input style="border: 1px solid black; padding: 2px 5px;" type="button" value="?"/>		-- Select -- <input style="border: 1px solid black; padding: 2px 5px;" type="button" value="?"/>	-- Select --
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Attorney Position 18	-- Select -- <input style="border: 1px solid black; padding: 2px 5px;" type="button" value="?"/>		-- Select -- <input style="border: 1px solid black; padding: 2px 5px;" type="button" value="?"/>	-- Select --
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Attorney Position 19	-- Select -- <input style="border: 1px solid black; padding: 2px 5px;" type="button" value="?"/>		-- Select -- <input style="border: 1px solid black; padding: 2px 5px;" type="button" value="?"/>	-- Select --
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Attorney
Position
20

<input type="text" value="-- Select --"/> <input type="button" value="?"/>		<input type="text" value="-- Select --"/> <input type="button" value="?"/>	<input type="text" value="-- Select --"/>
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Attorney
Position
21

<input type="text" value="-- Select --"/> <input type="button" value="?"/>		<input type="text" value="-- Select --"/> <input type="button" value="?"/>	<input type="text" value="-- Select --"/>
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Attorney
Position
22

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Attorney
Position
23

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Attorney
Position
24

<input type="text" value="-- Select --"/> <input type="button" value="?"/>		<input type="text" value="-- Select --"/> <input type="button" value="?"/>	<input type="text" value="-- Select --"/>
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Attorney
Position
25

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Attorney
Position
26

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Attorney
Position
27

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Attorney
Position
28

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Attorney
Position
29

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Attorney
Position
30

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Attorney
Position
31

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Attorney
Position
32

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Attorney
Position
33

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Attorney
Position
34

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Attorney
Position
35

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Attorney
Position
36

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Attorney
Position
37

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Attorney
Position
38

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Attorney
Position
39

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Attorney
Position
40

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Attorney
Position
41

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Attorney
Position
42

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Attorney
Position
43

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Attorney
Position
44

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Attorney
Position
45

<input type="text" value="-- Select --"/> <input type="button" value="?"/>		<input type="text" value="-- Select --"/> <input type="button" value="?"/>	<input type="text" value="-- Select --"/>
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Attorney
Position
46

<input type="text" value="-- Select --"/> <input type="button" value="?"/>		<input type="text" value="-- Select --"/> <input type="button" value="?"/>	<input type="text" value="-- Select --"/>
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Attorney Position 47	-- Select -- <input style="border: 1px solid black; padding: 2px;" type="button" value="?"/>		-- Select -- <input style="border: 1px solid black; padding: 2px;" type="button" value="?"/>	-- Select --
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Attorney Position 48	-- Select -- <input style="border: 1px solid black; padding: 2px;" type="button" value="?"/>		-- Select -- <input style="border: 1px solid black; padding: 2px;" type="button" value="?"/>	-- Select --
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Attorney Position 49	-- Select -- <input style="border: 1px solid black; padding: 2px;" type="button" value="?"/>		-- Select -- <input style="border: 1px solid black; padding: 2px;" type="button" value="?"/>	-- Select --
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Attorney Position 50	-- Select -- <input style="border: 1px solid black; padding: 2px;" type="button" value="?"/>		-- Select -- <input style="border: 1px solid black; padding: 2px;" type="button" value="?"/>	-- Select --
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- * 2. Please estimate the **total number of cases** at which **representation at arraignment** was provided as a result of the Contract funding. Include cases represented by hired attorneys, contracted attorneys, and attorneys receiving stipends for arraignment representation. Do not include arraignments on the felony indictment here, unless it was the defendant's first court appearance.

INSTRUCTIONS AND DEFINITIONS

General Instructions

Please include arraignments covered by:

- Assigned counsel panel attorneys who are paid an hourly rate or a stipend funded by the Contract to provide representation at arraignment.
- Attorneys who are hired with Contract funding (i.e., any attorney listed in Question 1)
- Attorneys whose base salaries are not funded by the Contract, but who are paid extra through the Contract (via hourly rates or stipends) to provide representation at arraignment.

- * 3. Please report **the number of non-attorney positions** that are funded as of March 31, 2023 by budget expenditure items listed in the “Caseload Relief,” “Quality Improvement,” and “Counsel at First Appearance” categories of the contract (see Attachment B-1). For each non-attorney position, please provide the **type, starting date**, and indicate if it was a **new hire, an upgrade of an existing hire** (i.e., an increase in hours), or a non-attorney position placed **on contract**.

INSTRUCTIONS AND DEFINITIONS	
General Instructions	<p>As this question tries to get a cumulative overview of non-attorney positions <u>since the implementation of the statewide reforms</u>, answers to this question should include <u>all</u> non-attorney positions that were funded through the Contract on the last business day of the reporting period (i.e., March 31, 2023).</p> <p>Answers to this question should include non-attorneys receiving funding for improvement of specialized services (e.g., investigators, social workers, and others such as experts, stenographers, interpreters, etc.) and non-attorney administrative support staff (e.g., secretaries, paralegals, case managers, grants managers, data officers, etc.). It should not include currently employed non-attorneys who receive stipends (e.g., a stipend issued to a currently staffed grants administrator).</p>
Type of Contract	
New Hire	refers to any new non-attorney position, part- or full-time, that was filled on the last business day of the reporting period (i.e., March 31, 2023). It includes, when applicable, ACP administrators.
Upgrade of Existing Hire	refers to any non-attorney position that was filled prior to the reporting period, and that was filled on the last business day of the reporting period (i.e., March 31, 2023), and for which the number of hours worked was increased. For example, an existing social worker whose position changed from part- to full-time would be included in this category. Salary increases that are not accompanied by an increase in the number of hours worked should not be included.
On Contract	refers to any individual non-attorney who occupies a position through a contract to provide services under this funding, and who was working under that contract on the last business day of the reporting period (i.e., March 31, 2023). It excludes contractors who did not occupy a position, such as those who received stipends.
Re-hire within the same position	If a position was filled by an individual, the individual left, and another individual was hired (i.e., a re-hire within the same position), please count this as one hire and only report the starting date for the first individual.

Type of Position	Starting Date (mm/yyyy)	New Hire, Upgrade of Existing Hire, or On Contract

Non-attorney
Position 1

<u>-- Select --</u> <input <="" td="" type="button" value="?"/> <td></td> <td><u>-- Select --</u> <input <="" td="" type="button" value="?"/></td>		<u>-- Select --</u> <input <="" td="" type="button" value="?"/>
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Non-attorney
Position 2

<u>-- Select --</u> <input <="" td="" type="button" value="?"/> <td></td> <td><u>-- Select --</u> <input <="" td="" type="button" value="?"/></td>		<u>-- Select --</u> <input <="" td="" type="button" value="?"/>
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Non-attorney
Position 3

<u>-- Select --</u> <input <="" td="" type="button" value="?"/> <td></td> <td><u>-- Select --</u> <input <="" td="" type="button" value="?"/></td>		<u>-- Select --</u> <input <="" td="" type="button" value="?"/>
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Non-attorney
Position 4

<u>-- Select --</u> <input <="" td="" type="button" value="?"/> <td></td> <td><u>-- Select --</u> <input <="" td="" type="button" value="?"/></td>		<u>-- Select --</u> <input <="" td="" type="button" value="?"/>
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Non-attorney
Position 5

<u>-- Select --</u> <input <="" td="" type="button" value="?"/> <td></td> <td><u>-- Select --</u> <input <="" td="" type="button" value="?"/></td>		<u>-- Select --</u> <input <="" td="" type="button" value="?"/>
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Non-attorney
Position 6

<u>-- Select --</u> <input <="" td="" type="button" value="?"/> <td></td> <td><u>-- Select --</u> <input <="" td="" type="button" value="?"/></td>		<u>-- Select --</u> <input <="" td="" type="button" value="?"/>
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Non-attorney
Position 7

<u>-- Select --</u> <input <="" td="" type="button" value="?"/> <td></td> <td><u>-- Select --</u> <input <="" td="" type="button" value="?"/></td>		<u>-- Select --</u> <input <="" td="" type="button" value="?"/>
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Non-attorney
Position 8

<u>-- Select --</u> <input <="" td="" type="button" value="?"/> <td></td> <td><u>-- Select --</u> <input <="" td="" type="button" value="?"/></td>		<u>-- Select --</u> <input <="" td="" type="button" value="?"/>
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Non-attorney
Position 9

<u>-- Select --</u> <input <="" td="" type="button" value="?"/> <td></td> <td><u>-- Select --</u> <input <="" td="" type="button" value="?"/></td>		<u>-- Select --</u> <input <="" td="" type="button" value="?"/>
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Non-attorney
Position 10

<u>-- Select --</u> <input <="" td="" type="button" value="?"/> <td></td> <td><u>-- Select --</u> <input <="" td="" type="button" value="?"/></td>		<u>-- Select --</u> <input <="" td="" type="button" value="?"/>
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Non-attorney
Position 11

<u>-- Select --</u> <input <="" td="" type="button" value="?"/> <td></td> <td><u>-- Select --</u> <input <="" td="" type="button" value="?"/></td>		<u>-- Select --</u> <input <="" td="" type="button" value="?"/>
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Non-attorney
Position 12

<u>-- Select --</u> <input <="" td="" type="button" value="?"/> <td></td> <td><u>-- Select --</u> <input <="" td="" type="button" value="?"/></td>		<u>-- Select --</u> <input <="" td="" type="button" value="?"/>
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Non-attorney
Position 13

<u>-- Select --</u> <input <="" td="" type="button" value="?"/> <td></td> <td><u>-- Select --</u> <input <="" td="" type="button" value="?"/></td>		<u>-- Select --</u> <input <="" td="" type="button" value="?"/>
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Non-attorney
Position 14

<input type="text" value="-- Select --"/> ?	<input type="text"/>	<input type="text" value="-- Select --"/> ?
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Non-attorney
Position 15

<input type="text" value="-- Select --"/> ?	<input type="text"/>	<input type="text" value="-- Select --"/> ?
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Non-attorney
Position 16

<input type="text" value="-- Select --"/> ?	<input type="text"/>	<input type="text" value="-- Select --"/> ?
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Non-attorney
Position 17

<input type="text" value="-- Select --"/> ?	<input type="text"/>	<input type="text" value="-- Select --"/> ?
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Non-attorney
Position 18

<input type="text" value="-- Select --"/> ?	<input type="text"/>	<input type="text" value="-- Select --"/> ?
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Non-attorney
Position 19

<input type="text" value="-- Select --"/> ?	<input type="text"/>	<input type="text" value="-- Select --"/> ?
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Non-attorney
Position 20

<input type="text" value="-- Select --"/> ?	<input type="text"/>	<input type="text" value="-- Select --"/> ?
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* 4. a. Please estimate the **total number of training events** hosted, sponsored, or co-sponsored by the Contract funding between April 1, 2022 and March 31, 2023. Training events include, but are not limited to, professional conferences and Continuing Legal Education (CLE) and non-CLE programs.

* 4. b. Please estimate **the total number of attorneys** whose attendance at training events was supported by the funding provided in the Contract between April 1, 2022 and March 31, 2023. This includes money spent towards for instance registration costs, mileage, flights, accommodations, etc., associated with the attorney attending the training. The training itself does not necessarily have to be hosted, sponsored or co-sponsored by the Contract funding.

* 5. a. For the expenditures on **expert services** listed in the Contract (see Attachment B-1), please estimate for the period between April 1, 2022 and March 31, 2023 the total amount spent in US dollars. This estimate should not include the salaries of experts; we are asking for an estimate of contracted expert services only.

INSTRUCTIONS AND DEFINITIONS	
General Instructions	Question 5 asks to report how much of the Contract funding was actually spent towards contracted expert services and contracted investigative services between April 1, 2022 and March 31, 2023. In the county's budget (Attachment B-1) you can see how much funding is allocated to each of these items. However, we ask you to report the actual money spent towards these goals. For instance, if \$5,000 was allocated in the Contract towards expert services but no money has yet been spent towards this goal, please fill in "0".
Expert Services	Expert services should include non-attorney professional services, such as consulting and testifying experts, as well as interpreters, social workers, case managers, mitigation specialists, and other expert services. It does <u>not</u> include process servers and transcript services.

* 5. b. For the expenditures on **investigative services** listed in the Contract (see Attachment B-1), please estimate for the period between April 1, 2022 and March 31, 2023 the total amount spent in US dollars. This estimate should not include the salaries of investigators; we are asking for an estimate of contracted investigative services only.

* 6. a. Please estimate for the period between April 1, 2022 and March 31, 2023 the **total number of cases** in which **expert services** were used. Include all cases in which expert services were provided as a result of Contract funding made available to contract with experts and Contract funding made available to hire experts as salaried employees.

INSTRUCTIONS AND DEFINITIONS

Expert Services

Expert services should include non-attorney professional services, such as consulting and testifying experts, as well as interpreters, social workers, case managers, mitigation specialists, and other expert services. It does not include process servers and transcript services.

* 6. b. Please estimate for the period between April 1, 2022 and March 31, 2023 the **total number of cases** in which **investigative services** were used. Include all cases in which investigative services were provided as a result of Contract funding made available to contract with investigators and Contract funding made available to hire investigators as salaried employees.

7. a. Please provide a brief description (i.e., including any applicable examples) of how the Contract funding has been used to reduce the number of cases assigned to attorneys.

7. b. Please provide a brief description (i.e., including any applicable examples) of any challenges currently being addressed in supporting caseload relief.

8. a. Please provide a brief description (i.e., including any applicable examples) of efforts made with the use of the Contract funds to ensure the appearance of defense counsel at arraignment.

8. b. Please provide a brief description (i.e., including any applicable examples) of any challenges currently being addressed in ensuring countywide arraignment coverage.

9. a. Please provide a brief description (i.e., including any applicable examples) of how the Contract funding has been used to improve the overall quality of mandated criminal defense representation. Only include information that has not already been provided in your answers to questions 7 and 8.

9. b. Please provide a brief description (i.e., including any applicable examples) of any challenges currently being addressed in ensuring the overall quality improvement of mandated criminal defense representation. Only include information that has not already been provided in your answers to questions 7 and 8.

APPENDIX B:

Attachment C of the County Contract

ATTACHMENT C

WORK PLAN

OFFICE OF INDIGENT LEGAL SERVICES

STATEWIDE EXPANSION OF HURRELL-HARRING

APRIL 1, 2018 – MARCH 31, 2023

Goals, Objectives, and Performance Measures

On a semi-annual basis, each grantee/contractor shall provide the Office of Indigent Legal Services with a written progress report summarizing the work performed during each such semi-annual period. The reports shall detail the grantee/contractor's progress toward attaining the specific goals, objectives and key performance measures as outlined below along with any additional information that may be required by the Office. These program progress reports must be submitted October 31st for the period starting April 1st and ending September 30th and April 30th for the period starting October 1st and ending March 31st.

Program progress reports will continue until such time as the funds subject to this contract are no longer available, have been accounted for, and/or throughout the contract period. The first progress report may be waived if the final approval of the grantee/contractor's contract by the Office of the State Comptroller is within two months of the date such progress report would be due. **(See Attachment D [“Payment and Reporting Schedule”] for written progress report reporting requirements in their entirety.)**

Goal

Implement the provisions of Chapter 59 of the Laws of 2017, Part VVV, sections 11-13, providing that the Office of Indigent Legal Services shall implement a plan to extend statewide the benefits of the Hurrell-Harring settlement reforms.

First Objective

Ensure all eligible criminal defendants are represented by counsel at arraignment, provided that timely arraignment with counsel is not delayed pending a determination of a defendant's eligibility.

Key Performance Measures

1. The number of attorneys hired with this funding who provide representation at arraignment;
2. The number of arraignments handled by each attorney compensated with this funding; and
3. A brief description of all activities funded by this grant under this objective and how those activities have improved the provision of counsel at first appearance.

Second Objective

Full compliance with the caseload standards issued by the Office of Indigent Legal Services.

Key Performance Measures

1. The number of attorneys hired with this funding and the dates of such hires;
2. The number of new cases opened by attorneys compensated with this funding;
3. The number of non-attorneys hired with this funding and the dates of such hires;
4. The name, and date of appointment, of the Data Officer or a description of progress toward appointment of a Data Officer; and
5. A brief description of all activities funded by this grant under this objective and how those activities have reduced caseloads.

Third Objective

Implement initiatives to improve the quality of indigent defense such that attorneys receive effective supervision and training, have access to and appropriately utilize investigators, interpreters and expert witnesses on behalf of clients, communicate effectively with their clients, have the necessary qualifications and experience, and, in the case of assigned counsel attorneys, are assigned to cases in accordance with article 18-b of the county law and in a manner that accounts for the attorney's level of experience and caseload/workload.

Key Performance Measures

1. The number of training events supported by this funding;
2. The number of attorneys whose attendance at training events was supported by this funding;
3. The number of cases in which expert services supported by this funding was used, and the dollar amount, both total and hourly rate, spent on such services;
4. The number of cases where investigative services supported by this funding was used, and the dollar amount, both total and hourly rate, spent on such services; and
5. A brief description of all activities funded by this grant under this objective and how those activities have improved the quality of representation provided to clients.

APPENDIX C:

*List of Providers in New York who submitted a Progress
Report*

County	Provider	Progress Report Submission Date
Albany	Assigned Counsel Program	04/18/2023
Albany	Public Defender's Office	04/20/2023
Albany	Alternate Public Defender's Office	04/18/2023
Allegany	Assigned Counsel Program	04/28/2023
Allegany	Public Defender's Office	04/28/2023
Broome	Public Defender's Office	04/27/2023
Broome	Comptroller	04/28/2023
Cattaraugus	Assigned Counsel Program	04/11/2023
Cattaraugus	Public Defender's Office	04/25/2023
Cayuga	Assigned Counsel Program	05/03/2023
Chautauqua	Assigned Counsel Program	05/15/2023
Chautauqua	Public Defender's Office	04/26/2023
Chemung	Assigned Counsel Program	04/04/2023
Chemung	Public Defender's Office	04/27/2023
Chemung	Public Advocate's Office	04/21/2023
Chenango	Public Defender's Office	04/27/2023
Chenango	Assigned Counsel Program	04/27/2023
Clinton	Assigned Counsel Program	04/24/2023
Clinton	Public Defender's Office	04/24/2023
Columbia	Public Defender's Office	04/07/2023
Columbia	Conflict Defender's Office	04/26/2023
Columbia	Assigned Counsel Program	04/11/2023
Cortland	Public Defender's Office	04/18/2023
Cortland	Assigned Counsel Program	04/11/2023
Delaware	Assigned Counsel Program	05/11/2023
Delaware	Public Defender's Office	04/05/2023

County	Provider	Progress Report Submission Date
Dutchess	Assigned Counsel Program	04/28/2023
Dutchess	Public Defender's Office	04/28/2023
Erie	Erie County Bar Association Aid to Indigent Prisoners Society, Inc.	04/27/2023
Erie	Legal Aid Bureau of Buffalo Inc.	04/25/2023
Essex	Assigned Counsel Program	04/28/2023
Essex	Conflict Defender's Office	04/17/2023
Essex	Public Defender's Office	04/17/2023
Franklin	Assigned Counsel Program	04/28/2023
Franklin	Conflict Defender's Office	05/04/2023
Franklin	Public Defender's Office	04/21/2023
Fulton	Assigned Counsel Program	04/28/2023
Fulton	Public Defender's Office	04/26/2023
Genesee	Assigned Counsel Program	05/15/2023
Genesee	Public Defender's Office	04/27/2023
Greene	Assigned Counsel Program	04/26/2023
Greene	Public Defender's Office	04/27/2023
Hamilton	Public Defender's Office	04/10/2023
Hamilton	Assigned Counsel Program	04/10/2023
Herkimer	Assigned Counsel Program	04/26/2023
Jefferson	Assigned Counsel Program	04/25/2023
Jefferson	Public Defender's Office	04/27/2023
Lewis	Public Defender's Office	05/01/2023
Lewis	Assigned Counsel Program	05/02/2023
Lewis	Conflict Defender's Office	05/09/2023
Livingston	Conflict Defender's Office	04/07/2023
Livingston	Public Defender's Office	04/07/2023
Livingston	Assigned Counsel Program	04/07/2023
Madison	Assigned Counsel Program	04/10/2023
Monroe	Public Defender's Office	04/28/2023
Monroe	Conflict Defender's Office	04/26/2023
Monroe	Assigned Counsel Program	04/26/2023
Montgomery	Public Defender's Office	04/28/2023

County	Provider	Progress Report Submission Date
Montgomery	Assigned Counsel Program	
Nassau	Assigned Counsel Program	04/04/2023
Nassau	Legal Aid Society of Nassau County	04/28/2023
New York City	Assigned Counsel Plan, Appellate Division, First Judicial Department	04/28/2023
New York City	Assigned Counsel Plan, Appellate Division, Second Judicial Department	05/01/2023
New York City	Appellate Advocates	04/27/2023
New York City	Bronx Defenders	04/28/2023
New York City	Brooklyn Defender Services	05/02/2023
New York City	Center for Appellate Litigation	04/03/2023
New York City	The Legal Aid Society	04/28/2023
New York City	Neighborhood Defender Services	05/17/2023
New York City	New York County Defender Services	04/28/2023
New York City	Office of the Appellate Defender	05/02/2023
New York City	Queens Defenders (formerly Queens Law Associates)	04/14/2023
Niagara	Conflict Defender's Office	04/28/2023
Niagara	Assigned Counsel Program	04/28/2023
Niagara	Public Defender's Office	04/26/2023
Oneida	Assigned Counsel Program	04/03/2023
Oneida	Public Defender's Office	04/20/2023
Orange	Assigned Counsel Program	04/28/2023
Orange	Legal Aid Society of Orange County	04/21/2023
Orleans	Assigned Counsel Program	04/28/2023
Orleans	Public Defender's Office	04/26/2023
Oswego	Assigned Counsel Program	04/25/2023
Otsego	Public Defender's Office	04/11/2023
Otsego	Assigned Counsel Program	04/11/2023
Putnam	Legal Aid Society of Putnam County	04/25/2023
Putnam	Assigned Counsel Program	04/13/2023

County	Provider	Progress Report Submission Date
Rensselaer	Assigned Counsel Program	
Rensselaer	Conflict Defender's Office	05/18/2023
Rensselaer	Public Defender's Office	05/10/2023
Rockland	Assigned Counsel Program	04/20/2023
Rockland	Public Defender's Office	04/28/2023
Saratoga	Conflict Defender's Office	04/27/2023
Saratoga	Assigned Counsel Program	04/17/2023
Saratoga	Public Defender's Office	04/24/2023
Schenectady	Public Defender's Office	04/26/2023
Schenectady	Conflict Defender's Office	05/12/2023
Schenectady	Assigned Counsel Program	04/19/2023
Schoharie	Assigned Counsel Program	04/28/2023
Seneca	Public Defender's Office	05/01/2023
Seneca	Assigned Counsel Program	05/01/2023
St. Lawrence	Assigned Counsel Program	04/28/2023
St. Lawrence	Conflict Defender's Office	04/27/2023
St. Lawrence	Public Defender's Office	04/28/2023
Steuben	Assigned Counsel Program	04/14/2023
Steuben	Conflict Defender's Office	05/03/2023
Steuben	Public Defender's Office	04/18/2023
Sullivan	Conflict Legal Aid Bureau	04/04/2023
Sullivan	Legal Aid Panel	04/09/2023
Sullivan	Assigned Counsel Program	04/19/2023
Tioga	Assigned Counsel Program	04/25/2023
Tioga	Public Defender's Office	04/07/2023
Tompkins	Assigned Counsel Program	04/24/2023
Ulster	Assigned Counsel Program	05/16/2023
Ulster	Public Defender's Office	04/27/2023
Warren	Assigned Counsel Program	05/05/2023
Warren	Public Defender's Office	05/05/2023
Wayne	Assigned Counsel Program	05/17/2023
Wayne	Public Defender's Office	04/18/2023

County	Provider	Progress Report Submission Date
Westchester	Legal Aid Society of Westchester County	05/12/2023
Westchester	Assigned Counsel Program	04/12/2023
Wyoming	Public Defender's Office	04/25/2023
Wyoming	Assigned Counsel Program	04/28/2023
Yates	Assigned Counsel Program	05/12/2023
Yates	Public Defender's Office	04/05/2023
53 (includes NYC)		122 of 124 Progress Reports Submitted

APPENDIX D:

*Key Performance Measures information as reported by
the 52 Counties and New York City*

County	Total # of attorneys funded (Q1)	Total # of funded attorneys providing CAFA (Q1)	Total # of cases represented by funded attorneys (Q1)	Total # of cases receiving counsel at arraignment (Q2)	Total # of non-attorney positions funded (Q3)	Total # of training events funded (Q4.a.)	Total # of attorneys attending training events funded (Q4.b.)	USD spent expert services (Q5.a.)	USD spent investigator services (Q5.b)	Total # of cases with expert services (Q6.a.)	Total # of cases with investigator services (Q6.b)
Albany	28	25	5549	4947	15	0	20	\$39,712.47	\$19,598.02	208	45
Allegany	2	1	175	0	1	0	6	\$14,500.00	\$25,600.00	5	30
Broome	5	3	1891	6043	6	3	23	\$56,341.05	\$76,958.45	18	495
Cattaraugus	8	7	1225	2167	5	0	12	\$20,730.00	\$15,596.00	725	1
Cayuga	1	0	0	1571	3	2	25	\$9,964.00	\$15,959.00	12	59
Chautauqua	13	12	6897	4842	20	0	12	\$7,879.80	\$4,921.74	5	1934
Chemung	4	3	1020	761	6	1	2	\$9,375.00	\$0.00	4	338
Chenango	1	1	457	253	3	0	0	\$9,450.00	\$6,228.28	2	15
Clinton	8	8	2477	1748	7	0	5	\$4,850.00	\$0.00	1349	1349
Columbia	3	3	559	617	1	0	2	\$13,497.92	\$27,622.00	32	1
Cortland	3	3	373	1270	3	1	8	\$42,255.88	\$3,707.60	292	7

County	Total # of attorneys funded (Q1)	Total # of funded attorneys providing CAFA (Q1)	Total # of cases represented by funded attorneys (Q1)	Total # of cases receiving counsel at arraignment (Q2)	Total # of non-attorney positions funded (Q3)	Total # of training events funded (Q4.a.)	Total # of attorneys attending training events funded (Q4.b.)	USD spent expert services (Q5.a.)	USD spent investigator services (Q5.b)	Total # of cases with expert services (Q6.a.)	Total # of cases with investigator services (Q6.b)
Delaware	5	5	978	937	2	5	5	\$3,586.42	\$1,169.00	12	17
Dutchess	13	11	1591	1334	13	0	62	\$49,256.37	\$603.28	16	145
Erie	21	15	1907	18602	36	53	333	\$264,304.80	\$395.45	588	2002
Essex	3	3	325	869	2	0	0	\$49,153.55	\$1,579.14	2	6
Franklin	1	0	0	0	4	0	0	\$0.00	\$0.00	0	0
Fulton	4	4	671	391	3	0	5	\$14,100.00	\$970.00	3	1
Genesee	4	3	513	1027	2	0	10	\$5,655.00	\$0.00	3	106
Greene	2	2	612	1606	2	1	22	\$700.00	\$0.00	6	0
Hamilton	4	3	87	174	2	0	1	\$0.00	\$0.00	0	0
Herkimer	0	0	0	704	1	0	1	\$0.00	\$0.00	0	0
Jefferson	2	2	477	2160	2	0	1	\$23,270.00	\$970.00	8	10

County	Total # of attorneys funded (Q1)	Total # of funded attorneys providing CAFA (Q1)	Total # of cases represented by funded attorneys (Q1)	Total # of cases receiving counsel at arraignment (Q2)	Total # of non-attorney positions funded (Q3)	Total # of training events funded (Q4.a.)	Total # of attorneys attending training events funded (Q4.b.)	USD spent expert services (Q5.a.)	USD spent investigator services (Q5.b)	Total # of cases with expert services (Q6.a.)	Total # of cases with investigator services (Q6.b)
Lewis	9	6	423	340	5	0	0	\$0.00	\$0.00	0	0
Livingston	6	2	305	1200	2	1	4	\$641.25	\$7,968.00	5	14
Madison	2	2	3	1877	0	4	16	\$7,641.00	\$7,749.00	5	16
Monroe	33	25	4451	6820	30	6	42	\$406,240.98	\$78,800.00	182	411
Montgomery*	2	2	332	502	2	5	5	\$1,840.70	\$217.35	8	1
Nassau	14	9	1767	791	4	0	2	\$32,393.41	\$0.00	2516	0
New York City	337	258	49,435	45,079	145	193	1071	\$286,506.62	\$118,081.40	1810	2130
Niagara	21	21	7172	4636	8	2	17	\$22,480.00	\$13,843.15	8	30
Oneida	3	3	952	2783	8	0	2	\$40,686.14	\$0.00	33	256
Orange	4	2	201	1085	3	2	0	\$27,871.35	\$3,418.25	6	4
Orleans	10	9	657	634	3	0	4	\$3,000.00	\$0.00	1	0

County	Total # of attorneys funded (Q1)	Total # of funded attorneys providing CAFA (Q1)	Total # of cases represented by funded attorneys (Q1)	Total # of cases receiving counsel at arraignment (Q2)	Total # of non-attorney positions funded (Q3)	Total # of training events funded (Q4.a.)	Total # of attorneys attending training events funded (Q4.b.)	USD spent expert services (Q5.a.)	USD spent investigator services (Q5.b)	Total # of cases with expert services (Q6.a.)	Total # of cases with investigator services (Q6.b)
Oswego	2	0	0	0	1	0	2	\$33,268.75	\$500.00	19	1
Otsego	2	2	321	525	1	0	0	\$1,200.00	\$3,100.00	1	8
Putnam	4	3	562	666	3	0	2	\$10,770.25	\$9,249.50	34	18
Rensselaer*	6	5	590	537	1	0	0	\$0.00	\$0.00	0	0
Rockland	15	13	2834	2193	7	1	15	\$12,719.00	\$0.00	36	0
Saratoga	10	7	1187	206	2	0	5	\$13,676.79	\$11,949.88	4	22
Schenectady	10	9	2059	25605	9	15	32	\$11,028.49	\$5,586.00	6	3
Schoharie	1	0	0	212	2	0	2	\$0.00	\$200.00	0	2
Seneca	3	2	268	417	1	2	2	\$1,026.40	\$545.06	8	2
St. Lawrence	4	4	1106	2046	1	0	11	\$0.00	\$4,975.90	0	3
Steuben	5	5	696	693	4	0	3	\$10,780.76	\$10,243.25	3	21

County	Total # of attorneys funded (Q1)	Total # of funded attorneys providing CAFA (Q1)	Total # of cases represented by funded attorneys (Q1)	Total # of cases receiving counsel at arraignment (Q2)	Total # of non-attorney positions funded (Q3)	Total # of training events funded (Q4.a.)	Total # of attorneys attending training events funded (Q4.b.)	USD spent expert services (Q5.a.)	USD spent investigator services (Q5.b)	Total # of cases with expert services (Q6.a.)	Total # of cases with investigator services (Q6.b)
Sullivan	17	11	1900	2106	0	2	13	\$5,225.00	\$4,700.00	3	7
Tioga	6	4	575	647	3	24	3	\$42,380.00	\$5,236.25	4	1
Tompkins	1	0	0	187	1	0	5	\$65,088.94	\$9,815.63	5	4
Ulster	10	8	1347	593	4	0	9	\$20,543.02	\$0.00	30	49
Warren	5	4	796	2103	5	7	34	\$8,110.00	\$10,826.47	85	16
Wayne	6	5	496	348	3	0	10	\$13,968.46	\$6,908.65	21	108
Westchester	5	3	896	45	1	2	52	\$18,000.00	\$10,000.00	9	25
Wyoming	2	1	85	342	3	4	6	\$0.00	\$0.00	0	0
Yates	4	3	444	219	0	0	1	\$0.00	\$0.00	0	0
TOTAL	694	542	111,786	157,460	401	336	1925	\$1,735,669.57	\$525,791.65	8,132	9,713

* The Assigned Counsel provider from this county did not submit a Performance Measures Progress report and thus, the numbers in this table do not reflect any implementation progress by this provider.